



Commonwealth
of Massachusetts

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Office of Campaign and Political Finance
One Ashburton Place, Room 411
Boston, MA 02108

Advisory Opinion

June 23, 1998
AO-98-13

John J. Stobierski
Stobierski & Stobierski
377 Main Street
Greenfield, MA 01301

Re: Filing requirements for members of Franklin Regional Council of Governments

Dear Mr. Stobierski:

This letter is in response to your request for an advisory opinion regarding your filing requirements.

On June 30, 1997, pursuant to an act of the Legislature, the county government of Franklin County was dissolved. See section 567 of chapter 151 of the Acts of 1996. You formerly were a Commissioner for Franklin County and as such you disclosed campaign finance activity in accordance with M.G.L. c. 55, §§ 18(c) and 19, i.e., you appointed a “depository” bank and complied with the procedures specified in the statute for depositing and issuing checks and reporting financial activity.

Upon the dissolution of the county government, a new entity was created called the Franklin Regional Council of Governments. As of July 1, 1997 the county commissioners became known as the Franklin Regional Council of Governments. All powers previously conferred upon the Franklin County commissioners were retained by the Franklin Regional Council of Governments and the Franklin Regional Council of Governments Executive Committee. See parts (r) and (w) of section 567.

Under part (w), a Regional Charter Commission brought proposed changes to the structure of the new regional government to member towns. After approval by the towns, two bodies were formed within the Council: the Representative body and the Executive Committee.

The Representative body is comprised of one representative from each member municipality who is appointed by the municipality’s Board of Selectmen or chief executive. In addition, the Franklin Regional Planning Board appoints one of its members to the Council.

The Executive Committee is made up of two members elected by the voters of Franklin County in biennial state elections to staggered four-year terms and also three persons from the Council (two representatives appointed by member towns and one representative chosen by the Regional Planning Board). You are one of the two elected members of the Executive Committee.

Question

Is a member of the Executive Committee who is elected by voters in the county required to comply with the provisions of M.G.L. c. 55, § 19 as a “depository candidate?”

Answer

No. Because you are no longer a “depository candidate,” you should close your depository account after filing an application for dissolution with this office. As a candidate for the Executive Committee, however, you are still a “candidate” as that term is defined in the campaign finance law and must file reports, in accordance with section 18, with this office.

Discussion

The campaign finance law requires “candidates for nomination or election to the offices of governor, lieutenant governor, secretary of state, attorney general, state treasurer and receiver general, auditor, governor’s council, district attorney, clerk of court, register of probate, registrar of deeds, **county commissioner**, county treasurer, and sheriff, mayor or other citywide office, except for the office of school committee, in a city with a total population . . . of one hundred thousand or more persons and the treasurer of each state [party] committee . . .” to file as “depository candidates.” M.G.L. c. 55, § 19(a), emphasis added.

As a county commissioner, you were among the listed candidates required to file under the depository system. The Legislature did not revise section 19 to include members of the Franklin Regional Council of Governments or its Executive Committee within the definition of depository candidates, and unless and until the section is changed, Executive Committee members are not depository candidates.¹

Executive Committee members are candidates and are, therefore, required to report their campaign finance activity by filing reports with this office. Section 18 governs reporting obligations of all candidates. Section 18 does not, however, specifically define the filing obligations of members of a regional council of governments.

¹ The Franklin Regional Council of Governments has submitted technical legislation (section 11 of the proposed substitution for H-4657) which, if enacted, would require the names of candidates for the two elected positions in the Executive Committee formed under the charter to be placed on the biennial state election ballot. In addition, the legislation specifies that such candidates would be subject to the reporting requirements of M.G.L. c. 55, § 18. H-4657 was submitted shortly after your request for an advisory opinion and therefore this opinion was not issued sooner. We are issuing this in response to your letter at this time because it now appears that the Legislature may not act on this matter in the near future. We will notify you if legislation is adopted which affects this opinion.

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Section 18 was enacted to ensure complete and timely disclosure of all campaign finance activity by candidates for elected public office in Massachusetts. To achieve that goal, it generally requires non-depository candidates to file before each primary or election and on the 20th of January each year. See, e.g., M.G.L.c. 55, § 18(b), which requires candidates for election to city or town office to file a report on or before the eighth day preceding a city or town election as well as after the election, and M.G.L. c. 55, § 18(h), which requires all candidates with certain specified exceptions not applicable here, to file each year on the 20th of January.

Consistent with the goal of section 18, Executive Committee candidates should file campaign finance reports eight days before an election in addition to the filing required on January 20 each year. This schedule for filing reports is consistent with the long established precedent of this office. For example, candidates for the Barnstable Assembly of Delegates and the Martha's Vineyard Commission file campaign finance reports eight days before elections and on the 20th of January each year. Like candidates for the Barnstable Assembly of Delegates and the Martha's Vineyard Commission, candidates for the Executive Committee represent a number of municipalities and are not specifically provided for in section 18.

Form 102 ND, a copy of which is enclosed, should be used to file both pre-election and year end reports. The form must be filed in any year in which you serve as an Executive Committee member, even if you receive no contributions and make no expenditures during a calendar year. The reports should be filed with OCPF. See M.G.L. c. 55, § 24.

This opinion is issued within the context of the Massachusetts campaign finance law and is provided on the basis of representations in your letter. Please contact us if you have further questions.

Sincerely,

A handwritten signature in black ink, reading "Michael J. Sullivan", followed by a horizontal line.

Michael J. Sullivan
Director

cc: Jay DiPucchio, Executive Director, Franklin Regional Council of Governments